

HOUSE BILL 323

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1998 Regular Session
8r1433
CF 8r1569

By: **Delegates Goldwater, Kopp, and Love**
Introduced and read first time: January 29, 1998
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations - Patient Transfers and Reimbursements**

3 FOR the purpose of specifying that compliance by a hospital emergency facility or
4 provider with certain policies and requirements of a health maintenance
5 organization may not be considered a violation of the federal Emergency Medical
6 Treatment and Active Labor Act; requiring that health maintenance
7 organizations reimburse hospital emergency facilities for services necessary to
8 stabilize members or subscribers before transferring them; providing for the
9 effective date of this Act; and generally relating to hospital emergency facility
10 services.

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 19-712.5
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Health - General
18 Section 19-712.5
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)
21 (As enacted by Chapter 107 of the Acts of the General Assembly of 1997)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Health - General**

25 19-712.5.

26 (a) A health maintenance organization shall reimburse a hospital emergency
27 facility and provider, less any applicable co-payments, for medically necessary
28 services provided to a member or subscriber of the health maintenance organization if

1 the health maintenance organization authorized, directed, referred, or otherwise
2 allowed the member or subscriber to use the emergency facility and the medically
3 necessary services are related to the condition for which the member was allowed to
4 use the emergency facility.

5 (b) A health maintenance organization shall reimburse a hospital emergency
6 facility and provider, less any applicable co-payments, for medically necessary
7 services that relate to the condition presented and that are provided by the provider
8 in the emergency facility to a member or subscriber of the health maintenance
9 organization if the health maintenance organization fails to provide 24-hour access in
10 accordance with the standards of quality of care required under § 19-705.1(b)(2) of
11 this subtitle.

12 (c) A health maintenance organization shall reimburse a hospital emergency
13 facility and provider, less any applicable co-payments, for medical screening services
14 rendered to meet the requirements of the Federal Emergency Medical Treatment and
15 Active Labor Act.

16 (d) Notwithstanding any other provision of this subtitle, a provider may not be
17 required to obtain prior authorization or approval for payment from a health
18 maintenance organization in order to obtain reimbursement under subsection (a), (b),
19 or (c) of this section.

20 (e) Notwithstanding any other provision of this article, a hospital emergency
21 facility or provider or a health maintenance organization that has reimbursed a
22 provider may collect or attempt to collect payment from a member or subscriber for
23 health care services provided for a medical condition that is determined not to be an
24 emergency as defined in § 19-701(d) of this subtitle.

25 (F) THE COMPLIANCE BY A HOSPITAL EMERGENCY FACILITY OR PROVIDER
26 WITH A HEALTH MAINTENANCE ORGANIZATION'S REIMBURSEMENT POLICIES AND
27 PATIENT TRANSFER REQUIREMENTS MAY NOT, DIRECTLY OR INDIRECTLY, BE
28 CONSIDERED A VIOLATION BY THE HOSPITAL EMERGENCY FACILITY OR PROVIDER
29 OF THE FEDERAL EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.

30 (G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
31 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
32 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
33 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
34 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
35 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
36 MEDICAL TREATMENT AND ACTIVE LABOR ACT.

37 (H) FAILURE BY A HEALTH MAINTENANCE ORGANIZATION TO COMPLY WITH
38 SUBSECTION (F) OR (G) OF THIS SECTION OR § 19-701(D) OF THIS SUBTITLE MAY
39 RESULT IN CIVIL MONETARY PENALTIES NOT TO EXCEED TREBLE DAMAGES.

40 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
41 read as follows:

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Article - Health - General

2 19-712.5.

3 (a) A health maintenance organization shall reimburse a hospital emergency
4 facility and provider, less any applicable co-payments, for medically necessary
5 services provided to a member or subscriber of the health maintenance organization if
6 the health maintenance organization authorized, directed, referred, or otherwise
7 allowed the member or subscriber to use the emergency facility and the medically
8 necessary services are related to the condition for which the member was allowed to
9 use the emergency facility.

10 (b) A health maintenance organization shall reimburse a hospital emergency
11 facility and provider, less any applicable co-payments, for medically necessary
12 services that relate to the condition presented and that are provided by the provider
13 in the emergency facility to a member or subscriber of the health maintenance
14 organization if the health maintenance organization fails to provide 24-hour access in
15 accordance with the standards of quality of care required under § 19-705.1(b)(2) of
16 this subtitle.

17 (d) Notwithstanding any other provision of this subtitle, a provider may not be
18 required to obtain prior authorization or approval for payment from a health
19 maintenance organization in order to obtain reimbursement under subsection (a), (b),
20 or (c) of this section.

21 (e) Notwithstanding any other provision of this article, a hospital emergency
22 facility or provider or a health maintenance organization that has reimbursed a
23 provider may collect or attempt to collect payment from a member or subscriber for
24 health care services provided for a medical condition that is determined not to be an
25 emergency as defined in § 19-701(d) of this subtitle.

26 (F) THE COMPLIANCE BY A HOSPITAL EMERGENCY FACILITY OR PROVIDER
27 WITH A HEALTH MAINTENANCE ORGANIZATION'S REIMBURSEMENT POLICIES AND
28 PATIENT TRANSFER REQUIREMENTS MAY NOT, DIRECTLY OR INDIRECTLY, BE
29 CONSIDERED A VIOLATION BY THE HOSPITAL EMERGENCY FACILITY OR PROVIDER
30 OF THE FEDERAL EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.

31 (G) IF A MEMBER OR SUBSCRIBER OF A HEALTH MAINTENANCE
32 ORGANIZATION IS TRANSFERRED FROM A HOSPITAL EMERGENCY FACILITY TO
33 ANOTHER MEDICAL FACILITY, THE HEALTH MAINTENANCE ORGANIZATION SHALL
34 REIMBURSE THE TRANSFERRING HOSPITAL EMERGENCY FACILITY AND PROVIDER,
35 LESS ANY APPLICABLE CO-PAYMENTS, FOR SERVICES PROVIDED TO STABILIZE THE
36 MEMBER OR SUBSCRIBER IN ACCORDANCE WITH THE FEDERAL EMERGENCY
37 MEDICAL TREATMENT AND ACTIVE LABOR ACT.

38 (H) FAILURE BY A HEALTH MAINTENANCE ORGANIZATION TO COMPLY WITH
39 SUBSECTION (F) OR (G) OF THIS SECTION OR § 19-701(D) OF THIS SUBTITLE MAY
40 RESULT IN CIVIL MONETARY PENALTIES NOT TO EXCEED TREBLE DAMAGES.

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
2 take effect July 1, 1998 and shall remain effective until the expiration of § 19-712.5(c)
3 of the Health - General Article, as enacted by Chapter 107 of the Acts of the General
4 Assembly of 1997.

5 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
6 take effect at that time when Section 1 of this Act no longer has any force or effect.